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IN THE US PATENT AND TRADEMARK OFFICE

App. Number: TO BE ASSIGNED 08/924,910
Filing Date: August 31, 1998
Applicants: Avto TAVKHELIDZE and Jonathan S. EDELSON
App. Title: Diode Device
Examiner: TO BE ASSIGNED
Group Art Unit: TO BE ASSIGNED

May 5 1999

Request for Filing Date Under 37 CFR 1.53(b)

Attn: Petitions Branch

Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED
MAY 25 1999
OFFICE OF PETITIONS
DEPUTY A/C PATENT

Sir:

On August 31, 1998, Applicants deposited with the United States Postal Service, using Express Mail service under 37 CFR 1.10, the following items: (i) a specification; (ii) 42 claims; (iii) six drawings; (iv) an abstract; (v) an executed inventors' declaration; and (vi) a check covering the small entity filing fee of \$801 (and reference to a small entity declaration filed in Application Serial No. 08/924,910, from which priority is claimed). On a paper also enclosed in the envelope, Applicants identified the filing as a Request for a File-Wrapper-Continuing Application, which Applicants have subsequently been informed was improper. Recognizing that the documents filed on August 31, 1998 included all of the requirements for granting a filing date under Rule 53(b), Applicants respectfully request that a filing date of August 31, 1998 be granted to the above-captioned application and a serial number for this application be assigned.

05/24/1999 SLUANG1 00000072 08924910

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Proprietary and Confidential, Property of Borealis Technical Limited
Request for Filing Date Under 37 CFR 1.53(b)
Parent App.: 08/924,910, Mailed May 5, 1999, Page 1 of 3
Jonathan Sidney Edelson

In order to assist the PTO with this request, Applicants submit herein, a history of what has transpired in this application:

(1) Applicants have been informed that the materials filed on August 31, 1998 currently reside on the desk of Ms. Janice Taylor, Room 9D32.

(2) A parent application, Serial No. 08/924,910, was filed on September 8, 1997 ("the Parent Application").

(3) Applicants intended to file a CIP of the Parent Application, and the Examiner of the Parent Application was so informed. The Examiner suggested that Applicants file a CPA, stating that a CIP was no longer available.

(4) On March 3, 1998, Applicants filed a specification, claims, and figures, identifying the filing as a CPA of the Parent Application ("the March Application"). The same Examiner received the March Application and informed Applicants that the March Application was not in the correct form for a CPA. The Examiner added he was previously incorrect in stating that a CIP application was not available and Applicants understood the Examiner to indicate that a CIP could be filed using the old forms.

(5) On August 31, 1998, Applicants filed the above-captioned application (Express Mail Label # EE083773371US) with a transmittal letter identifying the application as a Request for File-Wrapper-Continuing Application, and included the six items listed above.

(6) Having been informed that Applicants filed the above-captioned application on August 31, 1998, and in order to clear the March Application from his docket, the Examiner requested that Applicants file an Express Abandonment under 37 CFR 1.138. On October 15, 1998, in accordance with the Examiner's suggestion, Applicants expressly abandoned the March Application in favor of the above-captioned application.

(7) Applicants have yet to receive any documents, including a new serial number, in the above-captioned application.

(8) Applicants have spoken with Ms. Taylor, who stated that Applicants could file this request in the Petitions Branch.

Accordingly, Applicants respectfully request that the August 31, 1998 filing date be granted to the above-captioned application and a serial number for this application be assigned. To ensure consideration of this request, Applicants have enclosed as a petition fee a check for \$130. However, Applicants believe that this application is entitled to a filing date without additional fee. Therefore, Applicants respectfully request the enclosed \$130 be refunded if it should be determined that no fee was required.

In the alternative, Applicants request that this application be considered an improper filing under Rule 53(d), and Applicants respectfully request that they be notified and given a time period within which to correct the filing error, pursuant to Rule 53(e).

Very respectfully,



Jonathan S. Edelson
Applicant

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Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

PETITION ROUTING SLIP

(Find the petition from the list and check the box in the heading above the petition)

Complete if Known

Application Number	
Filing Date	08/31/98
First Named Inventor	TAVKHELIDZE
Group Art Unit	
Examiner Name	
Attorney Docket Number	

☒ PETITIONS DECIDED BY PETITIONS OFFICE

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|--|---|
| 301 Relating to Public Use Proceedings (37 CFR 1.292) | 503 To waive/suspend rules (37 CFR 1.183) |
| 302 To make application special - prospective manufacture (37 CFR 1.102, MPEP 708.02) | 504 To invoke supervisory authority - patent examining operations (37 CFR 1.181) |
| 303 To make special - infringement (37 CFR 1.102, MPEP 108.02) | 505 To withdraw from issue after payment of issue fee (37 CFR 1.313(b)(1-4)) |
| 304 Relating to the Filing/issuance of Divisional Reissue (37 CFR 1.177) | 506 To withdraw from issue after payment of issue fee (37 CFR 1.313(b)) or abandon application in favor of continuing application |
| 305 To waive or suspend rules (37 CFR 1.183) | 507 To enter priority papers after Issue Fee payment (37 CFR 1.55(a)) |
| 306 To expunge a paper from patent application or patent file (37 CFR 1.59) | 508 To defer issuance of patent (37 CFR 1.314) |
| 307 Withdrawal of Attorney (37 CFR 1.36) | 515 To invoke supervisory authority - re Office of Admin. (37 CFR 1.181) |
| 308 For access to application except re proceedings before Board (37 CFR 1.14, MPEP 103.104) | 516 To waive/suspend rules re patent mailers in Office of Admin. (37 CFR 1.183) |
| 309 Relating to Small Entity (37 CFR 1.28) | 519 To decide matters before Deputy A/C for Patents under 37 CFR 1.182 |
| 310 Relating to reexamination (37 CFR 1.181-1.183) | 521 To review refusal to accept & record maintenance fee - application filed on or after 8/27/82 (37 CFR 1.377) |
| 311 For correction of inventorship for applications - no filing date (37 CFR 1.48) | 523 To issue patent in the name of the Assignee (37 CFR 1.334(c)) |
| 312 For correction of inventorship re PCT applications (37 CFR 1.48) | 525 To withdraw a holding of abandonment (37 CFR 1.181) |
| 313 For filing application without one or more inventors (37 CFR 1.47) | 526 To order a Commissioner-initiated Reexamination proceeding (37 CFR 1.520) |
| 314 For filing PCT application without one or more inventors (37 CFR 1.47) | 527 To convert Provisional Application |
| 315 For extension of time without fee in cases in Application Division (37 CFR 1.136(b)) | 528 To reinstate abandoned Provisional Application |
| 399 For matters before A/C for Patents - not specified | 530 PCT petition-unavoidable |
| 408 Relating to a filing date under 35 USC 111 & 37 CFR 1.53 | 531 PCT petition-unintentional |
| 411 Filing date for application filed by Express Mail (37 CFR 1.10) | 532 To accept unavoidably delayed payment of maintenance fee (37 CFR 1.378 (b)) |
| 412 Filing date for lost application | 533 To accept unintentionally delayed payment of maintenance fee (37 CFR 1.378 (c)) |
| 501 To revive an abandoned application - unavoidable delay (37 CFR 1.137(a)) | 534 Petitions related to reexamination proceedings |
| 502 To revive an abandoned application - unintentional abandonment (37 CFR 1.137(b)) | 599 For matters before the Deputy A/C for Patents - not specified |

☐ PETITIONS DECIDED BY THE GROUP DIRECTOR

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| 601 To make application special on ground of age or health (37 CFR 1.102, MPEP 708.02) | 618 For concurrent Ex parte and Inter parte proceedings (37 CFR 1.212) |
| 602 To make special - continuity of earlier application (37 CFR 1.102, MPEP 708.02) | 619 For return of original oath of patent application (MPEP 604.04(a)) |
| 603 To make special - environment quality program (37 CFR 1.102, MPEP 708.02) | 620 For extension of time (37 CFR 1.136(b)) |
| 604 To make special - accelerated examination (37 CFR 1.102, MPEP 708.02) | 621 For interview after Notice of Allowance mailed (MPEP 713.10) |
| 605 To make special - Energy Program (37 CFR 1.102, MPEP 708.02) | 622 Concerning appeal application before transfer of jurisdiction to Board (MPEP 1206) |
| 606 To make special - Recombinant DNA (37 CFR 1.102, MPEP 708.02) | 623 For second or subsequent suspension of action (37 CFR 1.103, MPEP 709) |
| 607 To make special for reasons not provided for in codes 601-606 (37 CFR 1.102, MPEP 708.02) | 625 To reinstate Appeals dismissed in Group |
| 608 To reopen prosecution after Board decision (37 CFR 1.198) | 626 From denial of reexamination request (37 CFR 515(c)) |
| 609 For review of final restriction requirement (37 CFR 1.144) | 627 To enter an amendment after payment of Issue Fee (37 CFR 1.312(b)) |
| 610 Invoking Authority of Commissioner under 37 CFR 1.181 not specified in codes | 628 From refusal to issue a Certificate of Correction (37 CFR 1.181, MPEP 1480-1485) |
| 611 Relating to the prematurity of final rejection (37 CFR 1.181, MPEP 706.07(c)) | 629 For withdrawal of attorney from application pending in group (37 CFR 1.36) |
| 612 Relating to the refusal to enter an amendment (37 CFR 1.181 & 1.127, MPEP 714.19) | 630 For extension of time in a reexamination (37 CFR 1.350(c)) |
| 613 To withdraw a holding of abandonment (37 CFR 1.137, MPEP 711.03) | 631 To merge multiple reexamination proceedings (37 CFR 1.565(c), MPEP 2283) |
| 614 Relating to a requirement to cancel new matter from application (37 CFR 1.181, MPEP 608.04(c)) | 632 To effect a second conversion of inventorship (37 CFR 1.48, MPEP 201.03) |
| 615 Relating to formal sufficiency/propriety of affidavits (37 CFR 1.131, 1.132, 1.608, MPEP 715.07) | 633 Superconductivity |
| 616 To institute an interference (37 CFR 1.606) | 634 To correct inventorship in a patent not in interference (37 CFR 1.324, MPEP 1481) |
| 617 Relating to refusal to enter an amendment under 37 CFR 1.312 | 635 To change inventorship in an application (37 CFR 1.48) |
| | 636 To change inventorship in a patent (37 CFR 1.48) |
| | 637 To withdraw from issue before payment of an issue fee (37 CFR 1.313(a)) |
| | 699 For matters before Group Director - not specified |

☐ PETITIONS DECIDED BY BOARD OF PATENT APPEALS AND INTERFERENCES

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| 701 To exercise supervisory authority re action by examiner/examiner-in-chief (37 CFR 1.644) | 711 To assign particular members to hearing or to request augmented panel (35 USC 7) |
| 702 To accept belatedly filed copies of interference settlement agreements (35 USC 135(c), 37 CFR 1.666(c)) | 712 To decide miscellaneous questions in proceedings under 37 CFR 1.601-1.688 |
| 703 For withdrawal of attorney in proceeding under 37 CFR 1.201 - 1.288 (37 CFR 1.36) | 713 To accept priority papers in applications in interference (37 CFR 1.644) |
| 704 For access to a settlement agreement under 35 USC 135(c) (37 CFR 1.666(b)) | 714 To reinstate an Appeal |
| 705 For access to an application in proceedings before the Board (37 CFR 1.14(e)) | 799 For matters before Chairman of Board - not specified |
| 706 From a refusal to issue a Certificate of Correction (37 CFR 1.322, 1.323) | 801 To make an application before the Board special (37 CFR 1.102) |
| 707 To correct errors in inventorship (37 CFR 1.324) | 802 To reinstate an Appeal |
| 708 For extension of time to file amendment under 37 CFR 1.196(b) (37 CFR 1.136) | 803 To extend time/suspend proceedings (37 CFR 1.196, 1.197, 1.304) |
| 709 To make an application before the Board special (37 CFR 1.102) | 804 For extension of time to file supplemental Reply Brief (37 CFR 1.136) |
| 710 For extension of time to file supplemental Reply Brief (37 CFR 1.136) | 805 To accept late request for an Oral Hearing (37 CFR 1.136) |
| | 899 For matters before the Clerk of the Board - not specified |

☐ PETITIONS DECIDED BY SPECIAL LAWS (SECURITY AND GOVERNMENT INTEREST MATTERS)

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| 901 Under 42 USC 2182 | 904 Under 35 USC 267 |
| 902 Under 42 USC 2457 | 905 To consider/review security or Government interest matters - not specified |
| 903 Under 35 USC 184 | |

☐ PETITIONS DECIDED BY THE SOLICITOR

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| 951 Petitions for extension of time in court matters 35 USC 142, 145, 146 | 953 Requests filed under the Freedom of Information Act |
| 952 Petitions relating to ex parte questions in cases before the Court of Appeals for the Federal Circuit | 959 Not specified |

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.